

IN THE SENATE

SENATE BILL NO. 1116

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 18-8001, IDAHO CODE, TO REVISE
THE COURT'S AUTHORITY TO SUSPEND DRIVING PRIVILEGES FOLLOWING AN INI-
TIAL AND SUBSEQUENT CONVICTION OF A SPECIFIED OFFENSE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-8001, Idaho Code, be, and the same is hereby
amended to read as follows:

18-8001. DRIVING WITHOUT PRIVILEGES. (1) Any person who drives or is
in actual physical control of any motor vehicle upon the highways of this
state with knowledge or who has received legal notice pursuant to section
49-320, Idaho Code, that his driver's license, driving privileges or permit
to drive is revoked, disqualified or suspended in this state or any other ju-
risdiction is guilty of a misdemeanor.

(2) A person has knowledge that his license, driving privileges or per-
mit to drive is revoked, disqualified or suspended when:

(a) He has actual knowledge of the revocation, disqualification or sus-
pension of his license, driving privileges or permit to drive; or

(b) He has received oral or written notice from a verified, authorized
source, that his license, driving privileges or permit to drive was re-
voked, disqualified or suspended; or

(c) Notice of the suspension, disqualification or revocation of his li-
cense, driving privileges or permit to drive was mailed by first class
mail to his address pursuant to section 49-320, Idaho Code, as shown in
the transportation department records, and he failed to receive the no-
tice or learn of its contents as a result of his own unreasonable, in-
tentional or negligent conduct or his failure to keep the transporta-
tion department apprised of his mailing address as required by section
49-320, Idaho Code; or

(d) He has knowledge of, or a reasonable person in his situation exer-
cising reasonable diligence would have knowledge of, the existence of
facts or circumstances which, under Idaho law, might have caused the re-
vocation, disqualification or suspension of his license, driving priv-
ileges or permit to drive.

(3) Any person who pleads guilty to or is found guilty of a violation of
subsection (1) for the first time:

(a) Shall be sentenced to jail for a mandatory minimum period of not
less than two (2) days, and may be sentenced to not more than six (6)
months, provided however, that in the discretion of the sentencing
judge, the judge may authorize the defendant to be assigned to a work
release or work detail program within the custody of the county sheriff
during the period of incarceration, or, if the underlying suspension
that resulted in the violation of this section is not a suspension re-

1 sulting from an offense identified in subsection (8) of this section,
 2 the judge may authorize an equivalent amount of community service in
 3 lieu of jail, or any equivalent combination of these options;

4 (b) May be fined an amount not to exceed one thousand dollars (\$1,000);
 5 and

6 (c) ~~Shall~~ May have his driving privileges suspended by the court for an
 7 ~~additional six (6) months~~ period not to exceed one hundred eighty (180)
 8 days following the end of any period of suspension, disqualification or
 9 revocation existing at the time of the violation; the defendant may re-
 10 quest restricted driving privileges during the period of the suspension
 11 or disqualification, which the court may allow if the defendant shows by
 12 a preponderance of the evidence that driving privileges are necessary
 13 for his employment, education or for family health needs.

14 (4) Any person who pleads guilty to or is found guilty of a violation of
 15 subsection (1) for a second time within five (5) years, irrespective of the
 16 form of the judgment(s) or withheld judgment(s):

17 (a) Shall be sentenced to jail for a mandatory minimum period of not
 18 less than twenty (20) days, and may be sentenced to not more than one (1)
 19 year, provided however, that in the discretion of the sentencing judge,
 20 the judge may authorize the defendant to be assigned to a work release or
 21 work detail program within the custody of the county sheriff during the
 22 period of incarceration, or, if the underlying suspension that resulted
 23 in the violation of this section is not a suspension resulting from an
 24 offense identified in subsection (8) of this section, the judge may au-
 25 thorize an equivalent amount of community service in lieu of jail, or
 26 any equivalent combination of these options;

27 (b) May be fined an amount not to exceed one thousand dollars (\$1,000);
 28 and

29 (c) ~~Shall~~ May have his driving privileges suspended by the court for an
 30 ~~additional~~ period not to exceed one (1) year following the end of any
 31 period of suspension, disqualification or revocation existing at the
 32 time of the second violation, ~~during the first thirty (30) days of which~~
 33 ~~time he shall have absolutely no driving privileges of any kind.~~ The de-
 34 fendant may request restricted driving privileges during the period of
 35 the suspension or disqualification, ~~to begin after the period of abso-~~
 36 ~~lute suspension,~~ which the court may allow if the defendant shows by a
 37 preponderance of the evidence that driving privileges are necessary for
 38 his employment, education or for family health needs.

39 (5) Any person who has pled guilty to or been found guilty of more than
 40 two (2) violations of the provisions of subsection (1) of this section within
 41 five (5) years, notwithstanding the form of the judgment(s) or withheld
 42 judgment(s), is guilty of a misdemeanor; and

43 (a) Shall be sentenced to the county jail for a mandatory minimum pe-
 44 riod of not less than thirty (30) days, and may be sentenced to not more
 45 than one (1) year; provided, however, that in the discretion of the sen-
 46 tencing judge, the judge may authorize the defendant to be assigned to
 47 a work release or work detail program within the custody of the county
 48 sheriff during the period of incarceration, or, if the underlying sus-
 49 pension that resulted in the violation of this section is not a suspen-
 50 sion resulting from an offense identified in subsection (8) of this sec-

tion, the judge may authorize an equivalent amount of community service in lieu of jail, or any equivalent combination of these options;

(b) May be fined an amount not to exceed three thousand dollars (\$3,000); and

(c) ~~Shall~~ May have his driving privileges suspended by the court for an ~~additional~~ period not to exceed two (2) years following the end of any period of suspension, disqualification or revocation existing at the time of the violation, ~~during the first ninety (90) days of which time he shall have absolutely no driving privileges of any kind.~~ The defendant may request restricted driving privileges during the period of the suspension ~~or disqualification, to begin after the period of absolute suspension,~~ which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment, education or for family health needs.

(6) A minor may be prosecuted for a violation of subsection (1) of this section under chapter 5, title 20, Idaho Code.

(7) If a person is convicted for a violation of section 18-8004, 18-8004C or 18-8006, Idaho Code, and at the time of arrest had no driving privileges, the penalties imposed by this section shall be in addition to any penalties imposed under the provisions of section 18-8005, 18-8004A, 18-8004C or 18-8006, Idaho Code, and not in lieu thereof.

(8) For purposes of this section, the offenses referred to in subsections (3) (a), (4) (a) and (5) (a) of this section are:

(a) Section 18-1501(3), Idaho Code, transporting a minor in a motor vehicle while under the influence;

(b) Section 18-4006(3), Idaho Code, vehicular manslaughter;

(c) Section 18-8001, Idaho Code, driving without privileges;

(d) Section 18-8004, Idaho Code, driving under the influence of alcohol, drugs or other intoxicating substances;

(e) Section 18-8004C, Idaho Code, excessive alcohol concentration;

(f) Section 18-8006, Idaho Code, aggravated driving while under the influence of alcohol, drugs or any other intoxicating substances;

(g) Section 18-8007, Idaho Code, leaving the scene of an accident resulting in injury or death;

(h) Section 49-1229, Idaho Code, required motor vehicle insurance;

(i) Section 49-1232, Idaho Code, certificate or proof of liability insurance to be carried in motor vehicle;

(j) Section 49-1401, Idaho Code, reckless driving;

(k) Section 49-1404, Idaho Code, eluding a police officer;

(l) Section 49-1428, Idaho Code, operating a vehicle without liability insurance;

or any substantially conforming foreign criminal violation.

(9) In no event shall a person be granted restricted driving privileges unless the person shows proof of liability insurance or other proof of financial responsibility, as provided in chapter 12, title 49, Idaho Code.

(10) In no event shall a person who is disqualified or whose driving privileges are suspended, revoked or canceled under the provisions of this chapter be granted restricted driving privileges to operate a commercial motor vehicle.